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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 02 ZAGREB 001039

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DEPARTMENT FOR EUR/SCE HOH, SAINZ, BALIAN  
DEPARTMENT FOR PM

E.O. 12958: DECL: 08/31/2016  
TAGS: [PREL](#) [PGOV](#) [NATO](#) [MARR](#) [HR](#) [DEFENSE](#) [REFORM](#)  
SUBJECT: ARTICLE 98: MESIC'S COUNTERPROPOSAL

C O R R E C T E D COPY (PASS LINE ADDED)  
REF: ZAGREB 809

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Classified By: Ambassador Robert Bradtke for reasons 1.4 (b) and (d)

¶1. (C) Presidential foreign policy advisor Tomislav Jakic wrote former Ambassador Frank in late June (reftel) stating that President Mesic's office had examined the US draft "security cooperation agreement" which incorporated non-extradition language without specific mention of the ICC or Article 98, and had passed a counterproposal to the GoC for discussion with the Embassy. Numerous Post inquiries over the summer produced no information from MFA. Jakic finally handed Ambassador a copy of the counterproposal on August 30, noting that the President's office had "tried to go through channels" but in view of the Government's lack of response, had abandoned that process. Ambassador quickly scanned the text (below), and noted that there appeared to be a number of sticking points, such as the reference to a court authorized by "the UN and/or the UN Security Council" as well as the ambiguous reference to charges being filed in domestic courts. However, he agreed to transmit the proposal to the Department for expert review.

¶2. (C) COMMENT: It is not clear whether the President's office believes its "compromise" is something we could really live with, or has simply provided a counterproposal containing unacceptable language as a polite way of continuing to reject the entire Article 98 concept. Nevertheless, this is the first time we have received anything other than an outright refusal to consider such an agreement. We look forward to Department's evaluation of the Croatian text and suggestions about alternative language.  
END COMMENT.

¶3. Full Text of Mesic Counterproposal:

OFFICE OF THE PRESIDENT OF THE REPUBLIC OF CROATIA

DRAFT PROPOSAL

Agreement between the Government of the United States of America and the Government of the Republic of Croatia regarding Security Cooperation

The Government of the United States of America and the Government of the Republic of Croatia, hereinafter "the Parties",

Desiring to enhance friendly relations between the two countries;

Affirming the already stated intent to promote and strengthen relations between the two countries;

Reaffirming their support for the Statement of Interdiction Principles of the Proliferation Security Initiative;

Recognizing the Parties' past cooperation in the prevention of arms proliferation and exports;

Resolved to strengthen regional security and further comprehensive cooperation in the prevention of global terrorism;

Convinced that the established bilateral bonds are the appropriate framework for enhanced security and defense cooperation;

Estimating that this cooperation may be amplified and deepened in various areas of security, and defense technology and industry;

Proceeding from diverse activities and exchanges that have already resulted in security cooperation;

Recognizing that the Parties have established a State Partnership Program through which the Minnesota National Guard (USA) and the Armed Forces of the Republic of Croatia have enhanced the Parties' security cooperation;

Aware of the significant contribution of this cooperation to the international community in which global security is a fundamental element;

Frankly committed to cooperation with international tribunals established or authorized by the United Nations and/or the United Nations Security Council;

Based on principles of reciprocity and equal interests,

Hereby agree as follows:

The Government of the United States of America will continue

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to provide technical support, training and equipment for export control and border security to officials and employees, including contractors or military personnel of the Government of the Republic of Croatia.

The Parties hereby state their commitment to the finalization of an agreement which would regulate different aspects of the temporal presence of military and civilian personnel of the Department of Defense of the United States of America on the territory of the Republic of Croatia.

The Parties will continue to participate in the joint demining program in the territory of the Republic of Croatia.

The Parties will continue the practice of exchange visits of senior officers of their armed forces in the Republic of Croatia and the United States of America, and the U.S. European Command.

Eligible government officials, employees and military personnel of either Party, providing they meet the conditions for it, will continue to compete for attendance at appropriate military and other training and academic institutions of the other Party.

Within the scope of allocation of appropriated funds, the Government of the United States of America will provide to the Government of the Republic of Croatia access to certain security assistance, including international military education and training, foreign military financing and foreign military sales programs. These programs will make it possible for the Government of the Republic of Croatia to acquire mutually agreed defense articles, defense services and related training, and military education and training.

Current or former government officials, employees, contractors or military personnel, or nationals of one Party (hereinafter "the visiting Party") present in the territory of the other Party (hereinafter "the hosting Party") may be surrendered only to an international tribunal established or authorized by the United Nations and/or the United Nations Security Council, and only in cases when such a tribunal wants them as suspects or indictees, and when the national judiciary of the Party of which they are nationals has not charged them for offences because of which they are wanted by such a tribunal. Such persons may be surrendered or transferred to another entity or expelled to a third country only when that serves the purpose of surrender or transfer to an international tribunal established or authorized by the United Nations and/or the United Nations Security Council, and when the national judiciary of the Party of which they are nationals has not charged them for offences because of which they are wanted by such a tribunal. The extradition, surrender or transfer by any means of such persons from the hosting Party to any other international tribunal may be effected only by express consent of the visiting Party.

This Agreement shall enter into force upon signature by both Parties. It will remain in force until one year after the date on which one Party notifies the other Party of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done at (location) in duplicate, this (day, month, year) in the English and Croatian languages. Both copies shall apply equally.  
BRADTKE